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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/611,470	07/01/2003	Dimitri Peter Zafiroglu	SWZ-010	1592

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THE H.T. THAN LAW GROUP
WATERFRONT CENTER SUITE 560
1010 WISCONSIN AVENUE NW
WASHINGTON, DC 20007

EXAMINER

MATZEK, MATTHEW D

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 09/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/611,470	Applicant(s) ZAFIROGLU, DIMITRI PETER	
	Examiner Matthew D. Matzek	Art Unit 1771	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 June 2006.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-62 is/are pending in the application.
- 4a) Of the above claim(s) 23-37 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 and 38-62 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Response to Amendment

1. The amendment dated 6/23/2006 has been fully considered and entered into the Record. Claims 1-62 are currently pending, but claims 23-37 have been withdrawn from consideration. Amended claims 1, 8 and 62 contain no new matter. The previously applied prior art rejections have been withdrawn as they failed to teach a fibrous outer layer with a contiguous adhesive layer. New rejections are set forth herein.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 6-9, 19, 20, 22 and 38-41 are rejected under 35 U.S.C. 102(b) as being anticipated by Taylor (US 4,588,629).

Taylor teaches an embossed fabric comprising a thermoplastic binding layer 10 and a layer of fibers 11 (Abstract). The fiber layer may be dropped or blown in the form of a continuous film or patterned layer by any suitable technique (col. 6, lines 30-45) onto the tacky adhesive layer 10. This would allow for the fibers to be parallel to the adhesive layer. The adhesive layer may be continuous or discontinuous (col. 5, lines 39-44). As shown in Figure 2 the surface area comprises depressed areas and elevated areas and the fibers in the depressed areas are anchored in the adhesive layer (col. 4, lines 8-10). As shown in Figure 2 the depressed and elevated areas are formed to be non-planar and follow substantially the same contour. Claim 19 is rejected as Figure 2 shows the reverse

side having an undulating profile. Claim 22 is rejected as fibrous outer layer has a different color than the adhesive layer (col. 1, lines 32-39). Claims 38 and 40 are anticipated if the adhesive layer is a continuous film, claims 39 and 41 are anticipated if the adhesive layer is discontinuous.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 2-5, 10-18, 21, 42, 51-59 and 62 are rejected under 35 U.S.C. 103(a) as being unpatentable over Taylor (US 4,588,629) as applied to claim 1 above, and further in view of Gillette et al. (US 2003/0232170). The disclosure of Taylor is silent as to the use of spunlaced fabrics as a facing layer and the creation of loops upstanding from the adhesive layer.

a. Gillette et al. teach a spunlaced fabric that may be embossed with a decorative pattern and bonded to a backing layer (Figure 1). The backing layer may be a film of thermoplastic and the two layers may be bonded via thermal lamination [0024 and 25]. The fibrous outer layer may have loops upstanding from the adhesive layer (claim 1). The density of the backing layer is between about 0.65-1.4 g/cc [0025]. The fibrous outer layer (spunlaced fabric) may have a density of 0.1-1.2 g/cc [0017]. The disclosed densities allow for the creation of combined densities of claims 3-5, 12-14 and 21. The fibrous layer may have a thickness of between about 0.0010-0.0095 inches [0017] and the adhesive layer is from about 0.00025-0.010 inches [0025]. The disclosed thicknesses of

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the adhesive and fibrous layers allow for embossed articles of the instantly claimed thickness ratios. The spunlaced fabric may have a basis weight of greater than 0.56 oz/yd² (claim 39). The pattern limitations set forth in instant claims 51-55 are provided for in Figures 3A-3P.

b. Since Taylor and Gillette et al. are from the same field of endeavor (i.e. embossed fabrics), the purpose disclosed by Gillette et al. would have been recognized in the pertinent art of Taylor.

c. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the invention of Taylor with the densities, embossed patterns, and fabrics of Gillette et al. The skilled artisan would have been motivated by the creation of an aesthetically pleasing article as disclosed by Gillette et al. [0007].

d. Claims 56 and 57 are rejected as it would have been obvious to one of ordinary skill in the art at the time the invention was made the combined invention with the central portions removed from the composite motivated by the desire to create a more aesthetically pleasing article.

4. Claims 43-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Taylor (US 4,588,629) as applied to claim 1 above, and further in view of Makansi (US 5,882,770). The disclosure of Taylor is silent as to the use of knit, woven or stitch-bonded fabrics as a facing layer.

a. Makansi teaches a fibrous sheet with its outer surface embossed with a pattern of fine grooves (Abstract). The outer fibrous sheet may be woven, stitch-bonded or knit (col. 3, lines 10-14).

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- b. Since Taylor and Makansi are from the same field of endeavor (i.e. embossed fabrics), the purpose disclosed by Makansi would have been recognized in the pertinent art of Taylor.
 - c. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the invention of Taylor fabrics of Makansi. The skilled artisan would have been motivated by the creation of an article that produces rainbow and/or hologram images on exposure to light (Abstract).
- 5. Claims 48-50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Taylor (US 4,588,629) as applied to claim 1 above, and further in view of Addie et al. (US 3,924,040). The disclosure of Taylor is silent as to the use of lace fabrics as a facing layer.
 - a. Addie et al. teach the use of applying a nonwoven material to a scrim and then embossing the composite material (Abstract). For examining purposes, Examiner has interpreted the disclosed scrim as "lace" as the scrim is of an open or coarse weave (col. 1, lines 56-60). The combination of the nonwoven material and the open scrim constitute the closed and open layers, respectively.
 - b. Since Taylor and Addie et al. are from the same field of endeavor (i.e. embossed fabrics), the purpose disclosed by Addie et al. would have been recognized in the pertinent art of Taylor.
 - c. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the invention of Taylor fabrics of Addie et al. The skilled artisan would have been motivated by the creation of an article that is an improved fabric for use as a wall covering (col. 1, lines 22-25).

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6. Claims 60 and 61 are rejected under 35 U.S.C. 103(a) as being unpatentable over Taylor (US 4,588,629) in view of Gillette et al. (US 2003/0232170) as applied to claim 58 above, and further in view of Kirayoglu et al. (US 4,442,161). The disclosures of Taylor and Gillette et al. are silent as to the use of spunlaced fabrics comprised of staple fibers and woodpulp.

a. Kirayoglu et al. teach the creation of an improved liquid-barrier spunlaced fabric comprising woodpulp (Abstract) and synthetic staple length fibers (Example 2). The use of staple fibers meets the fiber length limitation of instant claim 60.

b. Since Taylor and Kirayoglu et al. are from the same field of endeavor (i.e. fabrics), the purpose disclosed by Kirayoglu et al. would have been recognized in the pertinent art of Taylor.

c. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to have made the combined invention of Taylor and Gillette et al. with the fabric of Kirayoglu et al. The skilled artisan would have been motivated by the desire to create an article with improved liquid-barrier properties (Abstract, Kirayoglu et al.).

Double Patenting

7. Claims 1-22 and 38-62 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 41-54 of copending Application No. 10/307,186. Although the conflicting claims are not identical, they are not patentably distinct from each other because both applications recite a fibrous face layer with elevated and depressed areas with the depressed areas adhesively attached to the rest of the composite.

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This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Response to Arguments

Applicant's arguments with respect to claims 1-22 and 38-62 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew D. Matzek whose telephone number is (571) 272-2423. The examiner can normally be reached on 8:30 am - 5:00 pm.


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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (571) 272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Mdm

MDM



Norca L. Torres-Velazquez
Primary Examiner
Art Unit 1771

9/13/06